



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 9, 1998

Mr. Ryan Tredway
Staff Attorney
Legal and Compliance Division, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR98-1621

Dear Mr. Tredway:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID#s 116501 and 116884.

The Texas Department of Insurance (the "department") received two open records requests for information submitted to the department by commercial insurers about their use of the "absolute pollution exclusion." You contend the requested information, a representative sample of which you have submitted to this office, is excepted from required public disclosure pursuant to, *inter alia*, section 552.101 of the Government Code in conjunction with section 9 of article 1.15 of the Insurance Code.¹

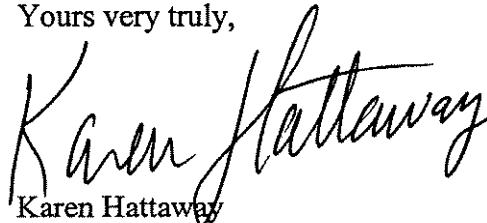
Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You explain that the department obtained the requested information from "the top twenty commercial lines insurers" during the course of a market conduct examination under the authority of section 9 of article 1.15 of the Insurance Code. In Open Records Decision No. 640 (1996), which replaced Open Records Decision No. 637 (1996), this office concluded that section 9 of article 1.15 makes confidential the examination reports and related work papers obtained during the course of an examination of a carrier that is not under liquidation or receivership. Assuming the insurers from whom the department

¹Because we resolve your request under section 1.15 of the Insurance Code, we need not address your other arguments for withholding the requested information.

received the requested information are not currently under liquidation or receivership, we conclude that the department must withhold the requested information pursuant to section 552.101 of the Government Code.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Karen Hattaway". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Karen Hattaway
Assistant Attorney General
Open Records Division

KEH/RWP/mjc

Ref.: ID# 116501
ID# 116884

Enclosures: Submitted documents

cc: Mr. Dan Lonkevich
Assistant Editor
National Underwriter Company
43-47 Newark Street
Hoboken, New Jersey 07030
(w/o enclosures)

²In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Mr. C. Wilson Shirley, III
Lea & Chamberlain
P.O. Box 684158
Austin, Texas 78768-4158
(w/o enclosures)

Mr. William H. Huff, III
Senior Vice President
TIG Insurance Company
5205 North O'Connor Blvd.
Irving, Texas 75039
(w/o enclosures)

Ms. Maria T. Manuele
Vice President
American International Companies
70 Pine Street, 22nd Floor
New York, New York 10270
(w/o enclosures)

Ms. Heidi J. Haerr
Corporate Claim Administration
Coregis Insurance Carrier
181 West Madison, Suite 2600
Chicago, Illinois 60602
(w/o enclosures)

Mr. Bob Johnson
Vice President, Claims
Employers General Insurance Group
P.O. Box 219010
Dallas, Texas 75221-9010
(w/o enclosures)

Mr. Charles Miller
Liability Division Director
Highlands Insurance Group
10370 Richmond Avenue
Houston, Texas 77042-4123
(w/o enclosures)

Mr Jim Johnson
Attorney
Mid-Continent Group
P.O. Box 1409
Tulsa, Oklahoma 77060
(w/o enclosures)

Ms. Linda D. Kaiser
Senior Vice President
Reliance Insurance Company
Three Parkway
Philadelphia, Pennsylvania 19102-1376
(w/o enclosures)

Mr. Jeffrey P. King
Chubb Group of Insurance Companies
Fountain Place, Suite 2500
1445 Ross Avenue
Dallas, Texas 75202-2763
(w/o enclosures)

Mr. Mark R. Hayden
Counsel Law Department
CNA Insurance Companies
CNA Plaza
Chicago, Illinois 60604
(w/o enclosures)

Mr. William A. Szerlip
Vice President
Gulf Insurance Group
P.O. Box 446
Dallas, Texas 75221-0446
(w/o enclosures)

Mr. Erik H. Aldeborgh
Liberty Mutual
175 Berkeley Street
Boston, Massachusetts 02177
(w/o enclosures)

Mr. Michael E. Ditto
Vice President and General Counsel
Republic Group of Insurance Companies
P.O. 6605060
Dallas, Texas 75266-0560
(w/o enclosures)

Ms. Linda H. Petry
Office of General Counsel
Royal Insurance
P.O. Box 1000
Charlotte, North Carolina 28201 1000
(w/o enclosures)

Mr. Raul R. Allegue
Second Vice President
Travelers Property Casualty
One Tower Square
Hartford, Connecticut 06183-1050
(w/o enclosures)

Mr. Thomas F. Lysaught
Vice President
Zurich-American Insurance Group
P.O. Box 4032
Schaumburg, Illinois 60168-4032
(w/o enclosures)

Mr. Ron Henry
Regional Claims Manager
Trinity Universal Insurance Company
P.O. Box 655028
Dallas, Texas 75265-5028
(w/o enclosures)